

LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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DATE: SEPTEMBER 5, 2003
FROM: KATHLEEN ROLLINGS-McDONALD, Acting Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

**SUBJECT: Agenda Item #8 – Confirmation of Exemption for LAFCO SC#207 –
City of Redlands Out-of-Agency Service Agreement for Law
Enforcement in the Donut Hole**

INITIATED BY:

City of Redlands

RECOMMENDATION:

Confirm that LAFCO SC#207 is exempt from the requirements of Government Code Section 56133 as outlined in Government Code Section 56133 Subsection (e).

BACKGROUND:

The City of Redlands has submitted a request to the Commission that it determine that the provision of law enforcement services to the Donut Hole be exempted from the provisions of Government Code Section 56133. The rationale for their request is their position that the provision of these services is "*an alternative to or substitute for*" law enforcement services currently provided by the County Sheriff. As such, the exemption authorized by Subsection (e) of 56133 would apply. A copy of the City's letter and Plan for delivery of law enforcement services is included as Attachment #1.

To provide a background on this issue, the basis for the City's request is that the County and City have entered into a Sales and Use Tax Sharing Agreement whereby the City will receive 90% of the sales and use tax generated in the Donut Hole (copy included as part of Attachment #2). In exchange for the receipt of sales tax revenues, the Agreement contemplates that the City will provide water, sewer, fire and police services within the

Donut Hole. The Agreement will remain in force until December 31, 2003, unless ratified by the passage of an initiative by the citizens of Redlands at the November 2003 election. If the ratifying initiative passes, the Agreement will terminate upon the annexation of the Donut Hole into the City, or August 12, 2028, whichever occurs first.

LAFCO has previously concluded that the City's provision of water, sewer, and fire services within the Donut Hole is exempt from LAFCO approval. The staff believes that the current request is also exempt pursuant to the provisions of Government Code § 56133(e) and has reviewed this with LAFCO Special Counsel, who concurs.

DISCUSSION:

Government Code § 56133(a) states: "A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county." Subsection (e) of § 56133 provides numerous exemptions from the requirement to obtain LAFCO approval. One of those exemptions states:

"This section does not apply to contracts or agreements ***solely involving two or more public agencies*** where the public service to be provided is an ***alternative to, or substitute for***, public services already being provided by an existing public service provider and where the ***level of service to be provided is consistent with the level of service contemplated by the existing service provider.***" (Emphasis added by staff.)

The Agreement is between the City and County and replaces the County police services in the Donut Hole with City police services in the Donut Hole. Accordingly, if the level of police services proposed to be provided by the City is consistent with the level of service contemplated by the County, the Agreement to provide police services in the Donut Hole is exempt from LAFCO approval.

Police service levels are measured in terms of "response time". The County Sheriff's contemplated level of service for the Donut Hole has been expressed as an approximately 6 minute response time. (Environmental Impact Report for General Plan, Specific Plan, and Development Code Amendments for the IVDA Area and Associated Water and Wastewater Facilities Plan for the Unserved IVDA Areas and revisions to the Citrus Plaza Regional Mall Project, August 2000-- copy included as Attachment #3). Staff has reviewed this response time determination with representatives of the County Sheriff's Department due to the three year lapse and they have indicated that it is still applicable to the area. The City's police service plan anticipates a similar response time of 9 minutes per call. (Copy included in City proposal to provide police services in

Donut Hole, in Attachment #1.) The similarity in these response times suggests that the level of service proposed to be provided by the City is comparable to that contemplated by the existing service provider, the County Sheriff. Evidence, therefore, exists to conclude that the Agreement between the City and County for the provision of police services in the Donut Hole is exempt from Commission approval pursuant to subsection (e) of § 56133.

CONCLUSION:

On the basis of the finding outlined above, the staff is recommending that the Commission confirm that pursuant to Government Code Section 56133 Subsection (e), the provision of law enforcement services by the City of Redlands to the Donut Hole is not subject to the provisions within Government Code Section 56133 requiring review and approval of the Commission.

KRM/

Attachments:

- 1 -- City of Redlands Letter Requesting Exemption and Plan for the Provision of Law Enforcement Services to the Donut Hole
- 2 -- City of Redlands Resolution No. 6189, San Bernardino County Resolution No. 2003-338, and Sales and Use Tax Apportionment Agreement between the County of San Bernardino and City of Redlands
- 3 -- Excerpt from Subsequent EIR Prepared by the County of San Bernardino for General Plan, Specific Plan and Development Code Amendments, etc., State Clearinghouse No. 94082084